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**Comcast Cablevision—Taylor and Local 4100, Communications Workers of America, AFL-CIO.**  
Case 7-CA-42054

August 5, 1999

**DECISION AND ORDER**

BY MEMBERS FOX, LIEBMAN, AND BRAME

Pursuant to a charge filed on May 19, 1999, the General Counsel of the National Labor Relations Board issued a complaint on June 2, 1999, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish information following the Union's certification in Case 7-RC-21365. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer, with affirmative defenses, admitting in part and denying in part the allegations in the complaint.

On July 1, 1999, the General Counsel filed a Motion for Summary Judgment. On July 2, 1999, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

In its answer the Respondent admits its refusal to bargain and to furnish information, but attacks the validity of the certification on the basis of its objections to conduct alleged to have affected the results of the election in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that no issue warranting a hearing is raised with respect to the Union's information requests. The Union requested bargaining by letter dated May 13, 1999, and by an attachment thereto requested the following information from the Respondent:

- Copies of all relevant insurance and pension plans.
- A copy of job descriptions.
- A list of all employees in the bargaining unit, titles, hire dates and wage rates.
- A description of all benefits.
- A specification of any changes in wages, hours, or terms and conditions of employment, planned or implemented since August 1998.
- A copy of all company practices and policies affecting unit employees.

Thereafter, by letter dated May 14, 1999, the Union requested the following additional information from the Respondent:

- A copy of the personnel file of unit employee Marcus Rogers.

The Respondent's answer admits that it refused to provide the information to the Union. Further, although the Respondent's answer denies that the information requested is necessary and relevant for the Union's duties as the exclusive bargaining representative of the unit employees, it is well established that such information is presumptively relevant and must be furnished on request. See, e.g., *Masonic Hall*, 261 NLRB 436 (1982); and *Mobay Chemical Corp.*, 233 NLRB 109 (1997). The Respondent has not attempted to rebut the presumption of the relevance of the information requested by the Union.

Accordingly, we grant the Motion for Summary Judgment<sup>1</sup> and will order the Respondent to recognize and bargain with the Union and to furnish it the information requested.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a corporation with offices and place of business at 24744 Eureka Road, Taylor, Michigan (the Taylor facility), has been engaged in the transmission of television programming by cable for residential use in the Southeastern Michigan area.

During calendar year 1998, the Respondent, in conducting its business operations, had gross revenues in excess of \$500,000 and purchased goods valued in excess of \$50,000 from points located outside the State of Michigan, and caused the goods to be delivered directly to its Taylor facility.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and

<sup>1</sup> The Respondent's request to dismiss the complaint is therefore dismissed.

(7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

### A. The Certification

Following the election held August 27, 1998, the Union was certified on May 4, 1999, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time field and technical employees, ware-house and converter control/repair employees and plant clerical employees, including installers, service techs, line/maintenance techs, lead line techs, construction employees, drafts person, headend techs, lead headend techs, bench techs, converter control/repair employees, warehouse employees, dispatchers, check-in employees and tech secretary, employed by Respondent at its facility at 24744 Eureka Road, Taylor, Michigan; but excluding office clerical employees, confidential employees, managerial employees, guards and supervisors as defined by the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

### B. Refusal to Bargain

On May 13, the Union, by letter, requested the Respondent to bargain and to furnish information, and on May 14, 1999, requested additional information. Since May 17, 1999, the Respondent has failed and refused to bargain and to furnish the requested information. We find that this failure and refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSION OF LAW

By failing and refusing on and after May 17, 1999, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB

226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Comcast Cablevision—Taylor, Taylor, Michigan, its officers, agents, successors, and assigns, shall

### 1. Cease and desist from

(a) Refusing to bargain with Local 4100, Communications Workers of America, AFL–CIO as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

### 2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time field and technical employees, ware-house and converter control/repair employees and plant clerical employees, including installers, service techs, line/maintenance techs, lead line techs, construction employees, drafts person, headend techs, lead headend techs, bench techs, converter control/repair employees, warehouse employees, dispatchers, check-in employees and tech secretary, employed by Respondent at its facility at 24744 Eureka Road, Taylor, Michigan; but excluding office clerical employees, confidential employees, managerial employees, guards and supervisors as defined by the Act.

(b) Furnish the Union the information that it requested on May 13 and 14, 1999.

(c) Within 14 days after service by the Region, post at its facility in Taylor, Michigan, copies of the attached notice marked “Appendix.”<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 7 after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading “Posted by Order of the National Labor Relations Board” shall read “Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.”

Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 17, 1999.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. August 5, 1999

Sarah M. Fox,	Member
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Wilma B. Liebman,	Member
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J. Robert Brame III,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

Notice To Employees

Posted by Order of the

National Labor Relations Board

An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Local 4100, Communications Workers of America, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time field and technical employees, ware-house and converter control/repair employees and plant clerical employees, including installers, service techs, line/maintenance techs, lead line techs, construction employees, drafts person, headend techs, lead headend techs, bench techs, converter control/repair employees, warehouse employees, dispatchers, check-in employees and tech secretary, employed by us at our facility at 24744 Eureka Road, Taylor, Michigan; but excluding office clerical employees, confidential employees, managerial employees, guards and supervisors as defined by the Act.

WE WILL furnish the Union the information that it requested on May 13 and 14, 1999.

COMCAST CABLEVISION—TAYLOR